



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,611	09/29/2003	Jean Liard	790_011	2552
25191	7590	02/02/2005	EXAMINER	
BURR & BROWN PO BOX 7068 SYRACUSE, NY 13261-7068			SHRIVER II, JAMES A	
			ART UNIT	PAPER NUMBER

3618

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,611

Applicant(s)

LIARD, JEAN

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/29/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. **Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Art Unit: 3618

5. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 2 recites the broad recitation "substantially between 8 mm and 12 mm, and the claim also recites "substantially equal to 10 mm", which is the narrower statement of the range/limitation. Claim 4 recites the broad recitation "substantially between 50 mm and 80 mm, and the claim also recites "substantially equal to 65 mm", which is the narrower statement of the range/limitation. Claim 6 recites the broad recitation "substantially between 105 mm and 115 mm", and the claim also recites "substantially equal to 109 mm", which is the narrower statement of the range/limitation. Claim 8 recites the broad recitation "substantially between 155 mm and 180 mm", and the claim also recites "substantially equal to 160 mm", which is the narrower statement of the range/limitation. Claim 9 recites the broad recitation "substantially between 1 mm and 50 mm", and the claim also recites "substantially between 2 and 25 mm, and is very preferably substantially equal to 4 mm", which is the narrower statement of the range/limitation. Claim 10 recites the broad recitation "substantially

Art Unit: 3618

between 2 mm and 100 mm”, and the claim also recites “substantially between 10 mm and 70 mm, and very preferably substantially equal to 40 mm”, which is the narrower statement of the range/limitation. Claim 11 recites the broad recitation “substantially between 85 mm and 120 mm”, and the claim also recites “substantially between 90 mm and 115 mm, and very preferably substantially equal to 100 mm”, which is the narrower statement of the range/limitation. Claim 12 recites the broad recitation “substantially between 2 mm and 100 mm”, and the claim also recites “substantially between 20 mm and 80 mm, and very preferably substantially equal to 40 mm”, which is the narrower statement of the range/limitation.

6. Claim 1 recites the limitations "the height (h_{av})" in line 8 and "the shovel zone" in line 7. There is insufficient antecedent basis for these limitations in this claim. Claim 2 recites the limitation " the height (h_{av})" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 3 recites the limitation "the distance (d_{av})" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 4 recites the limitation " the distance (d_{av})" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 7 recites the limitation "the length (l_s)" in line 2 and the limitation "the point" in line 3. There is insufficient antecedent basis for these limitations in the claim. Claim 8 recites the limitation " the length (l_s)" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 9 recites the limitation "the height (h_{AR})" in line 8. There is insufficient antecedent basis for this limitation in the claim. Claim 10 recites the limitation "the distance (d_{AR})" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 12 recites the limitation "the length (l_T)" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

7. Claim 9 is objected to because of the following informalities: Claim 9 sets forth “a bottom surface (7)” in line 2, however, claim 9 is dependent on claim 1, which has previously set forth “a bottom surface (7)” in line 2. Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-2, 5-9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBorde et al. (US Patent (US Patent 6,499,759 B2)).** DeBorde et al. discloses a board (1) for gliding over snow, the camber of the side cut of which is accentuated, comprising a bottom surface (22) with a forward contact line (L_{cav}), defined as being a forward limit of the contact zone of the bottom surface of the board on a horizontal planar surface, the board being placed on the horizontal planar surface, and a shovel (2), defined as being a forward part of the board that is curved upward in order to overcome obstacles, the shovel having a width of the shoulder of the ski line, defined as being a line on the bottom surface in the shovel zone at the location where its width is at a maximum, and wherein the bottom surface also comprises a rear contact line defined as being the rear limit of the contact zone of the bottom surface of the board on a horizontal planar surface, the board being placed on the horizontal planar surface, and a tail

Art Unit: 3618

turn-up (4), defined as being the turned-up rear part of the board from the rear contact line, the tail turn-up having a width of the heel of the ski line, defined as being the line on the bottom surface in the zone of the tail turn-up at the location where its width is at a maximum.

DeBorde et al. does not specifically disclose wherein the height of the width of the shoulder of the ski line and heel of the ski line, measured between said bottom surface and said horizontal planar surface is substantially between 5 mm and 15 mm for the shoulder and 1 mm and 50 mm for the heel. As set forth above in the claim rejection section based on 112 2nd paragraph, Applicant's ranges are unclear and indefinite, so as to allow Examiner to specifically determine the ranges and dimensions required by the claims. Therefore, the height of the width of the shoulder of the ski line and the heel of the ski line measured between the ground and the bottom surface of the ski, as shown in Figure 2, is certainly capable to falling into Applicant's ambiguous range.

Regarding claims 5-6, DeBorde et al. discloses wherein the width of the shoulder of the ski is between 102 and 108 mm (See column 3, lines 56-57), which falls within Applicant's indefinite ranges.

Regarding claims 7-8, although DeBorde et al. does not specifically disclose the length of the shovel between the tip and forward contact line, the reference does disclose the area of the shovel as being between 1000 and 1500 mm, which would allow a shovel distance included in Applicant's indefinite range.

Regarding claims 11-12, DeBorde et al. discloses wherein the width of the heel of the ski is between 92 and 100 mm (See column 3, lines 60-61), which falls within Applicant's indefinite range.

Art Unit: 3618

Allowable Subject Matter

10. Claims 3-4 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

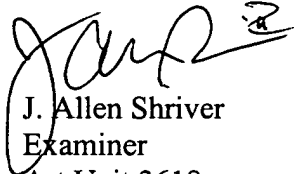
Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 3618

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monday, January 31, 2005

 1/31/05
J. Allen Shriver
Examiner
Art Unit 3618

JAS